

REMARKS

Claims 1-8 are presently pending in the application.

Claim 1 has been amended to recite that the sealant is in the form of a layer sandwiched between a major inner face of the metal case and a major outer case of the sealing body, and that the sealant is in direct contact with the major inner face of the metal case and the major outer face of the sealing body. Similarly, claim 3 has been amended to recite that the sealant is in a form of a layer sandwiched between a major inner face of said metal case and a major outer face of said gasket or between a major outer face of said sealing plate and a major inner face of said gasket and is in direct contact with these inner and outer faces. Support for these amendment may be found at least in Figs. 1-3 of the drawings with accompanying description, which clearly depict the claimed relationships between the elements. No new matter has been added by these amendments. Additionally, it is respectfully submitted that these amendments are proper after final since they merely clarify the nature and position of the sealant with respect to the other elements of the electrochemical element as argued in previous responses, and do not raise new issues or require the Examiner to perform a new search. Accordingly, entry is respectfully requested.

Examiner Interview

At the outset, Applicants acknowledge and appreciate the time and consideration afforded to Applicants' undersigned representative during a telephone interview on January 17, 2006. During this interview (summarized on the Interview Summary Report mailed January 20, 2006), the Examiner indicated that the above amendments to claims 1 and 3 would overcome the outstanding rejections based on Horie et al. Accordingly, in view of the present amendments, it is respectfully submitted that all of the pending claims are patentable over the prior art of record and in condition for allowance. The comments on the prior art below are simply being provided to complete the record.

Allowable Claims

Applicants acknowledge and appreciate the Examiner's indication in the present Office Action that claims 2 and 4-8 are only objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form. The Examiner states at the bottom of page 3 of the Office Action that, "The 'Takahashi Declaration'... is sufficient to overcome the rejection of claims 2 and 4-8 based on Horie in view of Shibantai."

However, the Examiner also states that:

The following is a statement for the indication of allowable subject matter: the prior art of record does not teach or suggest the instant invention regarding a phthalocyanine-based metal complex as the organic pigment for the instant sealant, as demonstrated by the Takahashi Declaration with respect to organic electrolyte resistance to dissolution and thermal resistance, resulting in enhanced leakage resistance as shown in Table 2, page 24 of the application.

Applicants respectfully traverse these reasons for allowance. Claims 5-8, which depend from claims 1 or 3, do not recite a phthalocyanine-based metal complex as the organic pigment. Rather, this element is only present in claims 2 and 4. The Examiner acknowledges that the prior art also does not teach or suggest the elements of claims 5-8. Therefore, correction of the Statement of Reasons of Allowance on the record to indicate that the invention is not limited to a phthalocyanine-based metal complex as the organic pigment in the sealant is respectfully requested.

Information Disclosure Statement

In the present Office Action, the Examiner notes that the non-patent document "Kyouritsu SHUPPAN", cited in the February 6, 2002 Information Disclosure Statement, has not been considered. The Examiner notes that citation of this document without an accompanying translation, English language abstract, or statement of relevance is not in compliance with MPEP 609, and thus requests that Applicants provide these related documents for the Examiner's consideration.

Applicants respectfully traverse this requirement. As set forth in MPEP § 609 III A(3), when information listed in an Information Disclosure Statement was cited in a search report by a foreign patent office in a counterpart foreign application, the requirement for a concise

explanation of relevance can be satisfied by submitting an English language version of the search report which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X," "Y," or "A," indication on the search report.

In the present case, the "Kyouritsu Shuppan" reference was cited in an International Search Report (ISR) dated September 11, 2001 from the Japanese Patent Office concerning counterpart International Application No. PCT/JP01/04830. A copy of the ISR (in English) was filed with the Information Disclosure Statement on February 6, 2002. The Search Report indicates that the "Kyouritsu Shuppan" reference was category Y and was relevant to claim 2 and 4. Accordingly, the requirement for a concise explanation of relevance has been satisfied, and consideration of this reference and initialing of this reference on the PTO/SB08 are respectfully requested.

Prior Art Rejections

In the final Office Action, the Examiner has again rejected claims 1 and 3 under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative, under § 103(a) as being obvious over U.S. Patent No. 6,146,789 of Horie et al. ("Horie"). The Examiner maintains that the metal sealing plate/sealing body [22] disclosed in Horie would resultantly be disposed on the opposite side of the sealant [24] relative to the other side in contact with the metal case [21] at least on the phantom line drawn in the Office Action. Applicants respectfully traverse these rejections and the arguments in support thereof for the reasons set forth previously on the record, which Applicants rely upon in full, and for the additional reasons which follow, and respectfully request reconsideration and withdrawal of the rejections.

Claims 1 and 3 now positively recite that the claimed sealant is in the form of a layer sandwiched between and in direct contact with a major inner face of the metal case and a major outer face of the sealing body (claim 1), sandwiched between and in direct contact with a major inner face of the metal case and a major outer face of the gasket (claim 3), or sandwiched between and in direct contact with a major outer face of the sealing plate and a major inner face of the gasket (claim 3). Horie does not teach or suggest, nor show in any part of the figures, that the sealant [24] is in the form of a layer which is sandwiched between and in direct contact

with major faces of the metal plate [22] and metal case [21]. As acknowledged by the Examiner during the telephone interview on January 17, 2006, the portion of the metal case of Horie which sandwiches the sealant on the phantom line drawn by the Examiner in the present Office Action cannot be considered to be a "major" inner face of the metal case. Further, the major inner face of the metal case of Horie is not in direct contact with the sealant due to the presence of element [23]. Horie also does not teach or suggest a sealant sandwiched between and in direct contact with major faces of the gasket and metal case. For all of these reasons, Horie does not read on or render obvious the present claims. Reconsideration and withdrawal of the § 102(b) and § 103(a) rejections are respectfully requested.

In view of the preceding Amendments and Remarks, Applicants submit that the pending claims are patentably distinct from the prior art of record and in condition for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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(Date)

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Encl: Petition for Extension of Time (one month)